

IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF WEST VIRGINIA

UNITED STATES OF AMERICA,

v.

Criminal No. 1:06CR24

BORFORD BLEDSOE,
Defendant.

ORDER/OPINION

On the 16th day of August 2006, came the defendant, Borford Bledsoe, in person and by his counsel, Charles Berry, and also came the United States by its Assistant United States Attorney, Shawn Angus Morgan, pursuant to a Petition for Action on Conditions of Pretrial Release filed in this case on August 1, 2006, alleging Defendant:

Violated Condition No. 7(H) that he refrain from any use or unlawful possession of a narcotic drug and other controlled substances as defined in 21 U.S.C. §802 unless prescribed by a licensed medical practitioner.

The nature of the alleged non-compliance was stated as follows:

On July 21, 2006, the defendant Borford Bledsoe furnished a urine specimen which tested positive for cocaine. The specimen from the presumptive positive result on July 28, 2006 was forwarded to Scientific Testing Laboratories (STL) requesting a confirmation test for cocaine. The STL test result was received on July 28, 2006, and the specimen was confirmed positive for cocaine

It is noted that at the defendant's plea hearing before the Honorable Chief Judge Irene M. Keeley on June 7, 2006, the defendant admitted to having smoked marijuana a couple days before his plea hearing. The Court continued the defendant on bond with no change in his conditions of pretrial release, but warned the defendant that if any future drug tests were positive for drugs, his bond would be revoked and he would be placed in custody. Subsequently, as a condition of pretrial release, the defendant accepted a referral for substance abuse counseling to Northwood Health Systems in Wheeling. He attended the "First Step" program, a Dual Disorder Structured Intensive Out-Patient Therapy Group treatment program for chemical issues and co-existing disorders. The defendant joined the group sessions on May 1, 2006, attended 32 group sessions, and missed 19 group sessions. Even with the number of missed group sessions, he successfully completed the First

Step Program on July 12, 2006 by having attended at least 30 group sessions and having maintained at least 45 consecutive days of sobriety. While in the group counseling, he was an active participant who offered appropriate feedback to his peers.

Nine days after completing the “First Step” program, the defendant tested positive for the use of cocaine, resulting in this violation petition. Prior to this positive drug test result, the defendant was drug tested five previous times and all the results were negative for the use of drugs. A few of the drug tests were presumptively positive for cocaine and THC (marijuana), but in lab confirmation testing, the results were negative.

Prior to the taking of evidence, Defendant filed “Notice Of Defendant’s Waiver Of His Pre-sentence Release” admitting therein that:

- 1) “within days of completing the program¹, Mr. Bledsoe submitted for a drug test which tested positive for cocaine;”
- 2) “that his drug addiction cannot be controlled at this time without continued positive reinforcement” and
- 3) “further desires to begin serving a period of incarceration as soon as possible, so that he may receive needed treatment and counseling, and thereby prevent further incidents which may jeopardize his plea agreement.”

Thereafter, the undersigned had Defendant placed under oath and engaged him in a colloquy during which Defendant told the Court he understood his rights to a preliminary hearing and voluntarily waived that preliminary hearing knowing he would be incarcerated pending final disposition by the District Judge.

Upon consideration of all which, the Court finds there is probable cause to believe the Defendant violated his Conditions of Pretrial Release as alleged in the Petition for Action on Conditions of Pretrial Release filed August 1, 2006 and voluntarily waived his right to pre-sentence release.

¹Defendant was accepted into and on July 12, 2006 completed a substance abuse counseling program at Northwood Health Systems in Wheeling West Virginia.

It is therefore

ORDERED that Defendant be bound over for a full hearing before the Honorable Irene M. Keeley, Chief United States District Judge for the Northern District of West Virginia on the violations in the Petition for Action on Conditions for Pretrial Release filed August 1, 2006.

It is further

ORDERED that Defendant's pre-sentence release be revoked and he be remanded to the custody of the United States Marshal pending further proceedings herein.

The clerk of the court is directed to send a copy of this order to counsel of record.

DATED: August 16, 2006

/s John S. Kaull

JOHN S. KAULL

UNITED STATES MAGISTRATE JUDGE